

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0479P

**Income Tax
Calendar Year 1997**

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the penalty assessed.

STATEMENT OF FACTS

The negligence penalty was assessed on a late filing of the Indiana Nonresident income tax return.

The taxpayer is an Illinois taxpayer with income in Indiana.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer argues the penalty should be waived as the taxpayer was unaware of the need to file an Indiana income tax return, and, when notified by his accountant, the taxpayer filed the tax return immediately. The Department points out the income tax return was filed on June 30, 1999, more than a year after the due date of the income tax return.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions

provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the negligence penalty proper and denies the penalty protest.

FINDING

The taxpayer’s penalty protest is denied.